

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

NORTHERN DYNASTY MINERALS
LTD, *et al.*,

Plaintiffs,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, *et al.*,

Defendants,

and

UNITED TRIBES OF BRISTOL BAY, *et al.*,

Intervenor-Defendants.

Case No. 3:24-cv-00059-SLG

STATE OF ALASKA,

Plaintiff,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Defendant,

and

TROUT UNLIMITED, *et al.*,

Intervenor-Defendants.

Case No. 3:24-cv-00084-SLG

ILIAMNA NATIVES LTD., et al.,

Plaintiffs,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, *et al.*,

Defendants,

and

UNITED TRIBES OF BRISTOL BAY, *et al.*,

Intervenor-Defendants.

Case No. 3:24-cv-00132-SLG

NOTICE OF INTENT TO CONSOLIDATE

The above-captioned cases, all involving the proposed project known as “Pebble Mine,” are currently before this Court. Multiple plaintiffs have brought suit against the United States Department of Environmental Protection. The Complaints raise a challenge under the Administrative Procedure Act (“APA”) to EPA’s February 2023 Final Determination prohibiting the specification and use of certain waters as disposal sites at the Pebble Deposit in southwest Alaska under the Clean Water Act, and, in at least one of the cases, a challenge to the U.S. Army Corps of Engineers’ April 2024 Record of Decision denying a Clean Water Act Section 404 permit. Numerous additional parties have been permitted to

intervene in all three cases.¹

Federal Rule of Civil Procedure 42(a) allows a district court to consolidate actions that “involve a common question of law or fact”; a court has “broad discretion under [Rule 42(a)] to consolidate cases pending in the same district.”² The Complaints in these suits each assert that the 2023 Final Determination published by the EPA is unlawful and each suit seeks a declaration vacating it.³ As such, consolidation of these actions appears warranted. Although the Court has authority to consolidate the cases *sua sponte*, the Court will provide an opportunity for the parties to address this issue, including whether consolidation could cause undue delay or prejudice.⁴

Accordingly, the Court notices its intent to consolidate these three cases, but will first consider any party’s objections to consolidation, with such objections

¹ These parties include: Trout Unlimited; The “Bristol Bay Intervenors” (United Tribes of Bristol Bay, Bristol Bay Native Association, Inc., Bristol Bay Economic Development Corporation, Bristol Bay Native Corporation, Bristol Bay Regional Seafood Development Association, Inc., and Commercial Fishermen for Bristol Bay); and the “SalmonState Intervenors” (SalmonState, Alaska Community Action on Toxics, Alaska Wilderness League, Alaska Wildlife Alliance, Cook Inletkeeper, Friends of McNeil River, Kachemak Bay Conservation Society, National Parks Conservation Association, National Wildlife Federation, Sierra Club, Alaska Center, Wild Salmon Center, Center for Biological Diversity, Earthworks, Friends of the Earth, and Natural Resources Defense Council).

² *Bank of New York Mellon as Tr. for Certificateholders of CWALT, Inc. Alternative Loan Tr. 2005-82, Mortg. Pass-Through Certificates Series 2005-82 v. SFR Inv. Pool, 1, LLC*, No. 22-16663, 2024 WL 687627, at *1 (9th Cir. Feb. 20, 2024), citing *Invs. Rsch. Co. v. U.S. Dist. Ct. for the Cent. Dist. of Cal.*, 877 F.2d 777, 777 (9th Cir. 1989).

³ Compare Docket 1 at 21 with Docket 91 at 51, *N. Dynasty Mins. Ltd., et al. v. EPA*, Case No. 3:24-cv-00059-SLG (D. Alaska Aug. 16, 2024).

⁴ *In re Adams Apple, Inc.*, 829 F. 2d 1484, 1487 (9th Cir. 1987); *Burton-Curl v. Seattle College District South Campus*, 2023 WL 2352225 (W.D. Wash. 2023).

to be filed within 14 days of the date of this order.

CONCLUSION

Any party that objects to the consolidation of the above-captioned cases shall file such objections, not to exceed five (5) pages, within 14 days of the date of this order.

DATED this 16th day of October 2024, at Anchorage, Alaska.

/s/ Sharon L. Gleason

UNITED STATES DISTRICT JUDGE